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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

*[Signature]*

DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JULIO PENA,  
Inmate Booking No. A205832367,  
  
Plaintiff,

vs.

SIX UNKNOWN NAMES AGENTS;  
BARACK OBAMA,  
  
Defendants.

Civil No. 14cv0930 BEN (JLB)

**ORDER DISMISSING CIVIL  
ACTION WITHOUT PREJUDICE  
FOR FAILING TO PAY  
FILING FEES REQUIRED  
BY 28 U.S.C. § 1914(a) AND/OR  
FAILING TO MOVE TO  
PROCEED *IN FORMA PAUPERIS*  
PURSUANT TO 28 U.S.C. § 1915(a)**

Plaintiff, currently detained at the Etowah County Detention Center in Gadsden, Alabama, and proceeding pro se, filed a one-page complaint entitled "Civil Rights Action with the Writ of Summons and Complaint" "under 42 U.S.C. § 1983" on April 15, 2014 (ECF Doc. No. 1).

**I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee

1 of \$400. *See* 28 U.S.C. § 1914(a).<sup>1</sup> An action may proceed despite a party's failure to  
 2 pay this filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP")  
 3 pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th  
 4 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

5 Plaintiff has not prepaid the \$400 in filing and administrative fees required to  
 6 commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28  
 7 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C. § 1914(a);  
 8 *Andrews*, 493 F.3d at 1051.

## 9 **II. CONCLUSION AND ORDER**

10 For the reasons set forth above, the Court hereby:

11 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the  
 12 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to  
 13 28 U.S.C. § 1914(a) and § 1915(a); and

14 (2) **GRANTS** Plaintiff **forty-five (45)** days leave from the date this Order is  
 15 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or*  
 16 (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust  
 17 account statement for the 6-month period preceding the filing of his Complaint. *See* 28  
 18 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).

19 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff  
 20 with this Court's approved form "Motion and Declaration in Support of Motion to  
 21 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee

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 27 <sup>1</sup> In addition to the \$350 statutory fee, all parties filing civil actions on or after  
 28 May 1, 2013, must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a),  
 (b); Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May  
 1, 2013. However, the additional \$50 administrative fee is waived if the plaintiff is  
 granted leave to proceed IFP. *Id.*

1 or complete and submit the enclosed Motion to Proceed IFP within that time, this action  
2 shall remain dismissed without prejudice and without further Order of the Court.

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4 DATED: 4/30/2014

  
5 HON. ROGER T. BENITEZ  
6 United States District Judge  
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